

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #6	CCRB Case #: 201710067	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/14/2017 3:10 PM, Wednesday, 11/15/2017	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 78	18 Mo. SOL 5/14/2019	EO SOL 5/14/2019	
Date/Time CV Reported Tue, 12/05/2017 4:15 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/05/2017 4:15 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Alicia Fox	04309	948792	078 PCT
2. POF Lauren Basso	09263	956418	078 PCT
3. LT Eduardo Silva	00000	933356	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Alicia Fox	Abuse: Police Officer Alicia Fox stopped § 87(2)(b) [REDACTED]	[REDACTED]
B.POF Alicia Fox	Abuse: Police Officer Alicia Fox searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]
C.LT Eduardo Silva	Discourtesy: Lieutenant Eduardo Silva spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.LT Eduardo Silva	Abuse: Lieutenant Eduardo Silva refused to provide his name to § 87(2)(b) [REDACTED]	[REDACTED]
E.POF Lauren Basso	Abuse: Police Officer Lauren Basso refused to provide her name and shield number to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On December 5, 2017, § 87(2)(b) filed this complaint via the CCRB website. On November 14, 2017, at approximately 3:10 p.m., § 87(2)(b) was sitting in his car, parked on § 87(2)(b) in Brooklyn. The car's engine ran for five to ten minutes before § 87(2)(b) pulled out of his parking spot and double parked right in front of the parking spot he just left. PO Aliche Claude approached and stopped § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Claude, Lt. Eduardo Silva, and PO Lauren Basso exited their unmarked police vehicle and approached § 87(2)(b)'s vehicle. PO Claude instructed § 87(2)(b) to exit his vehicle and stand at the back with Lt. Silva and PO Basso. § 87(2)(b) complied. PO Claude got into § 87(2)(b)'s driver seat and searched his vehicle, including inside the glove compartment (**Allegation B: Abuse of Authority**, § 87(2)(g) While standing at the back of the vehicle, § 87(2)(b) told Lt. Silva and PO Basso that the officers had no legal reason to search his vehicle. Lt. Silva told § 87(2)(b) to "shut the fuck up" (**Allegation C: Discourtesy**, § 87(2)(g) PO Claude instructed § 87(2)(b) to get back into his vehicle and wait. PO Claude issued § 87(2)(b) a warning for idling and no summons was issued.

As PO Claude walked back to the police vehicle, § 87(2)(b) asked PO Claude for her name and shield number, which she provided. § 87(2)(b) asked Lt. Silva and PO Basso for their names and shield numbers saying, "I need their names and badge numbers too." Lt. Silva and PO Basso looked at § 87(2)(b) but did not provide their names or shield numbers (**Allegation D: Abuse of Authority**, § 87(2)(g) **Allegation E: Abuse of Authority**, § 87(2)(g) § 87(2)(g), § 87(4-b)

PO Claude was married after the date of this incident and changed her last name to Fox. However, she will be referred to as PO Claude throughout this report.

There was no video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Aliche Claude stopped § 87(2)(b)

It is undisputed that § 87(2)(b) was double parked when PO Claude approached and stopped him. It is undisputed that § 87(2)(b) was never issued a summons during this incident.

§ 87(2)(b) was interviewed at the CCRB on December 18, 2017 (Board Review 01). § 87(2)(b) sat alone in his parked car, on § 87(2)(b), in Brooklyn, for approximately five to ten minutes with the engine running. After making sure he had all of his belongings, § 87(2)(b) pulled out of the parking spot. Immediately after exiting the parking spot, § 87(2)(b) double parked, either because he thought he may have forgotten something, or because he received a text message from a coworker. § 87(2)(b) believed that there was another vehicle in the parking spot in front of the one he had left. Approximately five seconds after double parking, an unmarked police vehicle stopped behind § 87(2)(b) with its lights on. PO Claude, Lt. Silva, and PO Basso exited the police vehicle and walked towards § 87(2)(b)'s vehicle. PO Claude approached § 87(2)(b)'s driver side and requested his license and registration, which he provided. § 87(2)(b) did not state whether or not there was a fire hydrant near where he was double parked.

PO Claude was interviewed at the CCRB on February 21, 2018 (Board Review 02). PO Claude observed § 87(2)(b) double parked in front of a fire hydrant, possibly on his phone. PO Claude drove around and canvassed the area for approximately 10 to 15 minutes, then returned to the location where § 87(2)(b) was parked. When she returned to the location, § 87(2)(b) was still double parked in front of the fire hydrant. PO Claude stopped § 87(2)(b) by activating her lights and sirens. PO Claude approached § 87(2)(b)'s vehicle and requested his license and registration. PO Claude ultimately issued § 87(2)(b) a warning and did not issue him a summons.

PO Basso was interviewed at the CCRB on February 22, 2018 (Board Review 03). Lt. Silva was interviewed at the CCRB on March 1, 2018 (Board Review 04). PO Basso and Lt. Silva's statements were consistent with PO Claude's regarding § 87(2)(b) being double parked. PO Basso and Lt. Silva both stated that § 87(2)(b) appeared to be rolling something, which they suspected to be a marijuana cigarette. PO Basso and Lt. Silva stated that § 87(2)(b) was not issued a summons because, as anti-crime officers, they try not to write summonses for violations.

PO Claude's memo book (Board Review 05) was the only documentation regarding this incident. PO Claude noted that § 87(2)(b) was stopped because he was double parked and idling.

The courts have held that the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred, People v. Robinson, 97 N.Y.2d 341, 2001 (Board Review 06).

Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand, or park a vehicle on a roadway side of any vehicle stopped, standing, or parked at the edge or curb of a street, New York Vehicle and Traffic Law, Section 1202, "Stopping, standing or parking prohibited in specified places," (Board Review 07).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Aicha Claude searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(g)

It is undisputed that § 87(2)(b) was alone at the time of this incident. § 87(2)(g)

§ 87(2)(b) (Board Review 01) provided his license, registration, and work ID to PO Claude. PO Claude asked § 87(2)(b) to exit his vehicle and go to the back of the vehicle with Lt. Silva and PO Basso. § 87(2)(b) complied and immediately exited the vehicle. While § 87(2)(b) stood at the back of his vehicle with Lt. Silva and PO Basso, he could see through the back windshield PO Claude entering § 87(2)(b)'s vehicle through the driver's door. PO Claude looked around the inside of the vehicle, including inside the glove compartment, under the two front seats, and in the back passenger area. PO Claude did not go into the trunk or remove anything from the vehicle.

PO Claude (Board Review 02) asked § 87(2)(b) for his license and registration, which he provided. PO Claude went back to the police vehicle and ran § 87(2)(b)'s information. After determining that § 87(2)(b) did not have any warrants, PO Claude went back to § 87(2)(b)'s vehicle and returned his documents. PO Claude did not recall if she ever asked § 87(2)(b) to exit his vehicle or if he exited his vehicle voluntarily. PO Claude denied that she or any officer entered § 87(2)(b)'s vehicle. PO Claude denied that she ever opened the glove compartment of § 87(2)(b)'s vehicle, looked under the front two seats, or looked in the back passenger area of the vehicle. PO Claude stated that she probably could have searched § 87(2)(b)'s vehicle because it smelled of marijuana the first time she approached, but reiterated that she did not search his vehicle.

PO Basso (Board Review 03) stated that PO Claude provided her with § 87(2)(b)'s documentation. PO Basso got back into the police vehicle and ran § 87(2)(b)'s name through the NYPD database for warrants, which took about two minutes. § 87(2)(b) remained in his vehicle while PO Basso was searching his name. PO Basso was not sure where PO Claude was or what she was doing at the time. PO Basso did not think that § 87(2)(b) was ever asked to exit his vehicle. PO Basso did not remember if § 87(2)(b) ever exited his vehicle voluntarily. PO Basso did not think that any officer ever searched § 87(2)(b)'s vehicle. PO Basso did not recall PO Claude entering § 87(2)(b)'s vehicle and did not remember seeing PO Claude inside § 87(2)(b)'s vehicle at any point.

Lt. Silva (Board Review 04) stated that PO Claude asked § 87(2)(b) to exit his vehicle. PO Claude never informed Lt. Silva why she asked § 87(2)(b) to exit his vehicle. § 87(2)(b) stepped out of his vehicle and met Lt. Silva and PO Basso at the rear of the vehicle. Lt. Silva did not know what PO Claude was doing while he and PO Basso were at the back of the vehicle with § 87(2)(b). Lt. Silva was not sure if PO Claude ever went inside § 87(2)(b)'s vehicle. Lt. Silva denied that there was ever a reason to search § 87(2)(b)'s vehicle. Lt. Silva did not remember if any officer when inside § 87(2)(b)'s vehicle.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Discourtesy: Lieutenant Eduardo Silva spoke discourteously to § 87(2)(b)

§ 87(2)(g)
§ 87(2)(b) (Board Review 01) told Lt. Silva and PO Basso that the officers had no legal reason to search his vehicle and that he was going to be late to work. Lt. Silva responded, "Shut the fuck up," and told § 87(2)(b) to wait until PO Claude was done. § 87(2)(b) had no further conversation with Lt. Silva and PO Basso.

Lt. Silva (Board Review 04) denied that § 87(2)(b) ever protested to his vehicle being stopped and searched. Lt. Silva denied that he told § 87(2)(b) to "shut the fuck up." Lt. Silva denied that he ever used profanity while speaking with § 87(2)(b).

PO Claude (Board Review 02) did not remember if Lt. Silva ever exited the police vehicle. PO Claude did not hear any officer tell § 87(2)(b) to "shut the fuck up."

PO Basso (Board Review 03) did not think that Lt. Silva ever spoke to § 87(2)(b). PO Basso did not hear Lt. Silva tell § 87(2)(b) to "shut the fuck up."

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Lieutenant Eduardo Silva refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Lauren Basso refused to provide her name and shield number to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) (Board Review 01) got back into his vehicle after PO Claude finished searching it. PO Claude went back to the police vehicle with § 87(2)(b)'s documents. Lt. Silva and PO Basso stood outside PO Claude's window speaking with her while she was in the police vehicle. Approximately five or ten minutes later, PO Claude returned to § 87(2)(b)'s vehicle. Lt. Silva and PO Basso remained near the police vehicle. PO Claude told § 87(2)(b) that she was giving him a warning for idling and that he could go. PO Claude turned and began to walk back to the police vehicle. § 87(2)(b) asked PO Claude for her name and shield number, which she provided. § 87(2)(b) asked Lt. Silva and PO Basso for their names and shield numbers by stating, "I need their name and [shield] numbers too." Lt. Silva and PO Basso were still outside the police vehicle when § 87(2)(b) said this and looked at him, which made him think that they heard his request. Lt. Silva and PO Basso did not provide their names or shield number to § 87(2)(b). PO Claude, Lt. Silva, and PO Basso got back into the police vehicle and left the location.

Lt. Silva (Board Review 04) was outside the police vehicle when PO Claude returned § 87(2)(b)'s documents to him. Lt. Silva did not remember if PO Basso was inside the police vehicle or not. As Lt. Silva and PO Claude were walking back to the police vehicle, § 87(2)(b) exited his vehicle and asked for PO Claude's name and command, which she provided. § 87(2)(b) did not make any statements after requesting this information from PO Claude. Lt. Silva denied that § 87(2)(b) ever asked for his name. Lt. Silva did not have a shield number because of his rank, but stated that § 87(2)(b) never requested a shield number from him. Lt. Silva did not hear § 87(2)(b) ask PO Basso for her name or shield number. Lt. Silva did not hear § 87(2)(b) ask PO Claude for Lt. Silva and PO Basso's names or shield numbers.

PO Basso (Board Review 03) did not remember having any conversation with § 87(2)(b). PO Basso denied that § 87(2)(b) ever asked for her name or shield number during the incident. PO Basso did not think that § 87(2)(b) ever asked for Lt. Silva's name or shield number.

PO Claude (Board Review 02) did not recall and did not think that if § 87(2)(b) ever asked for Lt. Silva's and PO Basso's names and shield numbers.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This was § 87(2)(b)'s first complaint with the CCRB (Board Review 11).
- PO Claude had four previous allegations stemming from one complaint over her seven year tenure with the NYPD. None of the allegations were substantiated. PO Claude had one previous stop allegation and it was exonerated.
- Lt. Silva had two previous allegations stemming from one complaint over his 14 year tenure with the NYPD. None of the allegations were substantiated.
- This was the first complaint filed against PO Basso over her three year tenure with the NYPD.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date